

PGI 215.403-3 Requiring data other than certified cost or pricing data.

To the extent that certified cost or pricing data are not required by FAR 15.403-4 and there is no other means for the contracting officer to determine that prices are fair and reasonable, the offeror is required to submit “data other than certified cost or pricing data” (see definition at FAR 2.101). In accordance with FAR 15.403-3(a), the offeror must provide appropriate data on the prices at which the same or similar items have previously been sold, adequate for determining the reasonableness of the price. The following clarifies these requirements:

(1) *Data other than certified cost or pricing data.* When certified cost or pricing data are not required, the contracting officer must obtain whatever data is necessary in order to determine the reasonableness of the price. The FAR defines this as “data other than certified cost or pricing data.” When TINA does not apply and there is no other means of determining that prices are fair and reasonable, the contracting officer must obtain appropriate data on the prices at which the same or similar items have been sold previously, adequate for evaluating the reasonableness of the price. Sales data must be comparable to the quantities, capabilities, specifications, etc., of the product or service proposed. Sufficient steps must be taken to verify the integrity of the sales data, to include assistance from the Defense Contract Management Agency, the Defense Contract Audit Agency, and/or other agencies if required. See PGI 215.404-1 (DFARS/PGI view) for more detailed procedures for obtaining data from offerors to determine price reasonableness.

(2) *Previously been sold.* Contracting officers shall request offerors to provide data related to prior sales (or “offered for sale”) in support of price reasonableness determinations.

(3) *Adequacy of sales data for pricing.* The contracting officer must determine if the prior sales data is sufficient for determining that prices are fair and reasonable. If the sales data is not sufficient, additional data shall be obtained, including cost data if necessary. See PGI 215.404-1 (DFARS/PGI view) for more detailed procedures for obtaining whatever data is needed to determine fair and reasonable prices.

(4) *Reliance on prior prices paid by the Government.* Before relying on a prior price paid by the Government, the contracting officer must verify and document that sufficient analysis was performed to determine that the prior price was fair and reasonable. Sometimes, due to exigent situations, supplies or services are purchased even though an adequate price or cost analysis could not be performed. The problem is exacerbated when other contracting officers assume these prices were adequately analyzed and determined to be fair and reasonable. The contracting officer also must verify that the prices previously paid were for quantities consistent with the current solicitation. Not verifying that a previous analysis was performed, or the inconsistencies in quantities, has been a recurring issue on sole source commercial items reported by oversight organizations. Sole source commercial items require extra attention to verify that previous prices paid on Government contracts were sufficiently analyzed and determined to be fair and reasonable. At a minimum, a contracting officer reviewing price history shall discuss the basis of previous prices paid with the contracting organization that previously bought the item. These discussions shall be documented in the contract file.

(5) *Canadian Commercial Corporation.* All contracts with the Canadian Commercial Corporation (CCC) are placed in accordance with the practices, policies and procedures of the Government of Canada covering procurement for defense purposes (See PGI [225.870](#)). Contracting Officers may rely on the confirmation and endorsement of the offer from the Canadian Commercial Corporation at [225.870-3\(a\)](#) as an endorsement of the cost/price as no more than would be charged to the Canadian government.

(i) When [252.215-7003](#) or [252.215-7004](#) are included in a solicitation with the Canadian Commercial Corporation, the data required by paragraph (b)(i) and (ii), in concert with the confirmation and

endorsement of the offer, is intended to meet the requirements of FAR 15.404-1 for documentation of fair and reasonable pricing.

(ii) Use of [252.215-7003](#) or [252.215-7004](#) in sole source acquisitions not meeting the threshold at [215.408\(2\)\(i\)\(A\)](#) or (ii)(A)(1) or competitive acquisitions at any dollar value shall be supported by a determination and finding justifying the anticipated need for data other than certified cost or pricing data to determine a fair and reasonable price.

(iii) When the contracting officer anticipates the need for additional data to establish a fair and reasonable price, specific data should be requested at time of solicitation as detailed in DFARS [252.215-7003](#).

(iv) Examples of clause use:

Scenario Requirement

Sole source to CCC, fixed price, with estimated value of \$600 million.

Include provision and clause in accordance with [215.408\(2\)\(i\)\(A\)\(2\)](#) and (ii)(A)(1)(ii), respectively, because estimated value exceeds \$500 million.

Sole source to CCC, cost reimbursement, with estimated value of \$800,000.

Include provision and clause in accordance with [215.408\(2\)\(i\)\(A\)\(1\)](#) and (ii)(A)(1)(i), respectively, because estimated value exceeds \$750,000.

Sole source to CCC, cost-reimbursement, with estimated value of \$500,000.

Do not include provision and clause, unless D&F is approved in accordance with [215.408\(2\)\(i\)\(B\)](#) and (ii)(A)(2)), respectively, because estimated value does not exceed \$750,000.

Sole source to CCC, fixed price, with estimated value of \$800,000

Do not include provision and clause, unless D&F is approved in accordance with [215.408\(2\)\(i\)\(B\)](#) and (ii)(A)(2)), respectively, because estimated value does not exceed \$500 million.

Modifications to contracts that include the clause [252.215-7004](#).

If [252.215-7004](#) is included in the contract, then data are required for modifications valued above the simplified acquisition threshold, or a higher threshold specified in the solicitation by the contracting officer, in accordance with [252.215-7004\(b\)](#).

(6) Reporting requirements.

(i) All contracting officers are required to document, collect, and provide a report to the head of the contracting activity of all denials of contracting officer requests to offerors/contractors for data other than certified cost or pricing data that are not resolved through the elevation process at PGI [215.404-1\(a\)\(i\)\(A\)](#) and, therefore, require a determination by the head of the contracting activity in accordance with FAR 15.403-3(a)(4).

(ii) The head of the contracting activity shall consolidate and validate this information and forward it in the standard digital format available at <https://www.acq.osd.mil/dpap/index.html> to fulfill the reporting requirement to the Director, Defense Pricing and Contracting (DPC). The first quarter for reporting will be April 1 - June 30, 2019, with the reports due to DPC by July 30, 2019, and 30 days after the end of

each quarterly reporting period thereafter. Transmit reports electronically to DPC at osd.pentagon.ousd-a-s.mbx.dpc-pci@mail.mil.

(iii) The report shall contain the following information for each reported occurrence:

(A) Contracting activity/DOD Activity Address Code.

(B) Name, email address, and telephone number of the procuring contracting officer (PCO) that requested the data.

(C) Name of the offeror/contractor that denied the request.

(D) Commercial and Government Entity (CAGE) code.

(E) Contract number.

(F) Part number and national stock number.

(G) Whether the offeror/contractor is an exclusive dealer for the Original Equipment Manufacturer.

(H) Date of initial request.

(I) Type of data requested.

(J) Number of requests made.

(K) Number of denials received.

(L) Date of final request.

(M) Reason for denial.

(N) Reason data is needed.

(O) HCA determination that it is in the best interests of DoD to purchase from the supplier.

(P) Plan for avoiding situation in future.

(iv) DPC will establish a team of functional experts from the military departments and defense agencies to analyze the data reported as a result of this requirement. The team of functional experts will—

(A) Assess parts and offerors/contractors deemed to be at high risk for unreasonable pricing and identify trends; and

(B) Perform price analysis and cost analysis of high-risk parts to identify lower cost alternatives or fair and reasonable pricing for future procurements.

Parent topic: [PGI 215.403 Obtaining certified cost or pricing data.](#)